

M e m o r a n d u m**580.0380**

To: Los Angeles District – Principal Auditor

Date: May 4, 1966

From: Tax Counsel (EHS) - Headquarters

Subject: Military Personnel and Drive-Away Permits

This is with reference to your memorandum of April 8, 1966, concerning the application of use tax to purchases of automobiles by members of the armed forces.

There was a recent decision of the United States Supreme Court, California v. Buzard, 15 L.Ed. 2d 436, holding that the Soldiers' and Sailors' Civil Relief Act barred California from exacting the vehicle license fee as a condition to registering a serviceman's car in California. Following consultation with the Office of the Attorney General, we have concluded that notwithstanding this decision, the use tax validly applies with respect to purchases of automobiles by servicemen if otherwise the tax would be applicable. There are, of course, those provisions of the Sales and Use Tax Law, §§ 6248 and 6249, which, in effect, exempt the member of the armed forces on active duty who purchases a vehicle outside this state. These sections, however, do not affect in-state purchases of vehicles from nondealers.

The Buzard case did not involve the use tax. It involved the vehicle license fee which is in lieu of a property tax. Although there is some rather broad language in the decision, the decision also points out that the purpose of the Soldiers' and Sailors' Relief Act was to free nonresident servicemen from the obligation to pay "property and income taxes."

EHS:fb

cc: San Francisco – Auditing (LC:CFL):